

REMARKS

In the Office Action, the Examiner rejected pending claims 1-9, 11-19, 21-37, 39-43, and 45-60. By the present Response, Applicants amended claims 1, 33, 40, and 49 to clarify features of the present technique. No new matter has been added. In view of the foregoing amendments and following remarks, Applicants respectfully request reconsideration and allowance of all pending claims. Further, the Applicants note that the Examiner did not provide Applicants with a copy of the secondary reference "*Buying on the Web: A Site-Seers Guide*" by Kalbhen, J. (hereinafter "Kalbhen"). Therefore, Applicants were unable to address the Kalbhen reference in the present Response. Applicants respectfully request that the Examiner provide Applicants with a copy of the Kalbhen reference or withdraw the rejections based on the Kalbhen reference. Additionally, in view of the missing reference and missing citation on the PTO-892 form, Applicants submit that the Office Action was incomplete and, thus, the next Office Action should not be made final. See 37 C.F.R. §§ 1.104(b) and (d); M.P.E.P. § 707.05. Applicants must be given a "full and fair hearing." M.P.E.P. § 706.07.

Claim Rejections under 35 U.S.C. § 103(a)

Apparently, the Examiner rejected claims 1-9, 11-19, 21-37, 39-43 and 45-60 under 35 U.S.C. § 103(a) as obvious over Hartley-Urquhart (U.S. Patent No. 6,167,305) in view of McCormack, Jr., "*A Worldwide Network of Supplies*" (hereinafter "McCormack"), and alternatively, in further view of Kalbhen. Specifically, the Examiner stated:

Hartley-Urquhart discloses, as in claims 1, 17, 40, a method and system for supply chain financing which involves analyzing transactions for resources in a facility (buyer-210) (see col. 3, 11. 16+),

Providing access to financial analysis system (23) for a resource supplier via a network (240) (see col. 4, 11. 29+),

interface including a form (Purchase Order —PO) for entering client data for resources (see col. 4, 11. 36+),

receiving the client data from the network interface via the network (see col. 4, 11. 36+),

analyzing the client data in the financial analysis system (see col. 3, 11. 16+);

providing a plurality of financial transaction options tailored to the client data (see PO, col. 6, 11. 29-37; col. 8, 11. 50+); and transmitting the plurality of financial transaction options to a client via the network (see col. 8, 11. 50+),

McCormack discloses receiving client trade data for a purchasing transaction for medical resources. It would have been obvious for an artisan at the time of the invention to integrate the teachings of McCormack into Hartley-Urquhart because an artisan at the time of the invention would have recognized the growing trend in medical supply chain management along with the notoriously old and well known high costs associated with the supply chain and have sought provide a system that would provide affordable, efficient and flexible financing for goods and services.

On the other hand it would have been obvious for an artisan at the time of the invention to have employed the [used] medical supply equipment websites mentioned by McCormack and Kalbhen (see medibuy, neoforma, et al.,) because an artisan at the time of the invention would have recognized such items have goods that are supplied by suppliers to medical facilities within a supply management configuration that would require supply chain financing with various purchasing options.

Office Action, pages 3-4. Applicants respectfully traverse these rejections. Moreover, in the present Response, Applicants address the cited combination of Hartley-Urquhart and McCormack, but do not address any combination relying on the Kalbhen reference because the Examiner did not provide the Kalbhen reference. The Examiner was notified on June 14, 2005, via both fax and telephone, that the Kalbhen reference was not provided. However, Applicants still have not received the Kalbhen reference from the Examiner. Applicants respectfully request the Examiner provide the Kalbhen reference or withdraw the rejections based on Kalbhen, and allow the claims.

Legal Precedent

The burden of establishing a *prima facie* case of obviousness falls on the Examiner. *Ex parte Wolters and Kuypers*, 214 U.S.P.Q. 735 (PTO Bd. App. 1979). To establish a *prima facie* case, the Examiner must not only show that the combination includes *all* of the claimed elements, but also a convincing line of reason as to why one of ordinary skill in the art would have found the claimed invention to have been obvious in light of the teachings of the references. *Ex parte Clapp*, 227 U.S.P.Q. 972 (B.P.A.I. 1985). The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d. 1430 (Fed. Cir. 1990). The Examiner must provide objective evidence, rather than subjective belief and unknown authority, of the requisite motivation or suggestion to combine or modify the cited references. *In re Lee*, 61 U.S.P.Q.2d. 1430 (Fed. Cir. 2002). One cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988).

Features of Independent Claims Missing from Hartley-Urquhart and McCormack

Independent Claims 1, 40, 49, 50, 55, 59, 60

Independent claims 1, 40, 49, and 50 recite “providing access to a financial analysis system for a medical resource supplier via a network.” Independent claims 50 and 60 recite “providing access to a financial module for a medical resource supplier via a network.”

In contrast, the Hartley-Urquhart reference is absolutely devoid of a financial analysis system or financial module associated with a resource supplier. The Examiner points, incorrectly, to the human financial advisor 230 or bank 230 in Hartley-Urquhart, which are clearly not a financial analysis system, as claimed. Further, the financial advisor 230 or bank 230 are associated with the buyer 220 and *not a supplier* 210. See Hartley-Urquhart, col. 3, lines 14-34; col. 4, lines 29-35. In addition, the financial advisor 230 is hired by the buyer 220 to *evaluate use of the disclosed supply-chain*

financing approach, and not for the analysis of client data for obtaining a medical resource. See Hartley-Urquhart, col. 3, lines 16-48.

Moreover, the McCormack reference is also absolutely devoid of “providing access” to a “financial analysis system” or “financial module.” Instead, McCormack is directed to the electronic exchange of purchasing-related information, such as product availability, purchase orders, invoices, and payments. *See* McCormack, ¶ 4.

In view of these deficiencies, independent claims 1, 40, 49, 50, 55, 59, and 60, and their dependent claims, are believed to be patentable over the cited combination of Hartley-Urquhart and McCormack.

Independent Claims 1, 33, 40, 49

Independent claims 1 and 49, as amended, recite “providing a network interface for communication with the financial analysis system, the network interface including an *electronic form for entering client data* for medical resources.” Independent claim 33, as amended, recites “providing an *electronic interface* for exchanging information between a client and the transaction system, wherein the interface has *fields for entering client data*.” Independent claim 40, as amended, recites “providing a communication interface comprising *electronic fields* for transmitting client data to the financial module.”

Conversely, the cited references, taken alone or in combination, do not teach or suggest an *electronic form* or *electronic fields* for entering or exchanging client data. For example, while Hartley-Urquhart discloses the transmission of a purchase order 235 via an electronic link 240, traditional mail, voice, or fax, Hartley-Urquhart clearly does not teach or suggest an electronic form or electronic fields for entering client data. *See* Hartley-Urquhart, col. 4, lines 29-52. Similarly, while the McCormack reference may disclose the transfer of a purchase order as an attachment to an electronic message, for example, McCormack plainly does not disclose electronic forms or fields for entering client data. *See* McCormack, ¶ 4.

Therefore, independent claims 1, 33, 40, and 49, and their dependent claims are believed to be patentable over the cited combination of Hartley-Urquhart and McCormack.

Independent Claims 1, 17, 33, 40

Independent claim 1 recites “receiving *client trade-in data* for a purchasing transaction for medical resources.” Independent claim 17 recites “wherein the client data comprises *trade-in data* for a client trade-in with the financial transaction.” Independent claim 33 recites “receiving *client trade-in information* for a purchasing transaction for medical resources.” Independent claim 40 recites “receiving *client trade-in information* at the financial module.”

Conversely, the Hartley-Urquhart reference clearly fails to teach or suggest *client trade-in data* or information. Instead, Hartley-Urquhart is directed to a supply-chain financing system and evaluation of such a system. *See* Hartley-Urquhart, col. 2, lines 14-45; col. 3, lines 16-25. Further, while McCormack may mention the sale of used equipment over the Internet, the McCormack reference clearly does not teach or suggest *client trade-in data or information*. *See* McCormack, page 2. Applicants emphasize that the presently claimed subject matter is not simply directed to a purchasing system that may incorporate supply-chain management, or to the electronic exchange of information, but is directed to specific features recited in the claims. Here, the cited references do not teach *client trade-in data or client trade-in information* in context of the instant claims.

Therefore, claims 1, 17, 33, and 40, and their dependent claims are believed to be patentable over the cited combination of Hartley-Urquhart and McCormack.

Independent Claims 1, 17, 33, 40, 49-60

Independent claims 1, 33, 40, 49, 50, and 53-60 recite “providing a plurality of financial transaction options” which are “tailored to the client data,” and “transmitting the plurality of financial transaction options to a client via the network.” Independent claims 17, 51 and 52 recite a “financial analysis module being configured to evaluate the

client data and to *generate a plurality of financial transaction options* tailored to the client data.”

In stark contrast, the cited references, taken alone or in combination, do not teach or suggest a financial analysis system or module that *generates* a plurality of financial transaction *options*. Further, neither reference discloses the *transmission* of financial transaction *options*. In Hartley-Urquhart, for example, the buyer 220 is presented with no financial transaction options at all. See Hartley-Urquhart, col. 4, lines 53-67. In the Hartley-Urquhart system, the buyer 220 simply accepts the goods, and the bank 230 finances the goods and forwards payment to the supplier 210. No options whatsoever are provided to either the buyer 220 or seller 210. See Hartley-Urquhart, col. 5, lines 26-30. Indeed, the bank 230 does not even generate options but merely calculates the payment to the supplier 210. See Hartley-Urquhart, col. 5, lines 46-50; col. 8, lines 50-67. Further, while the Hartley-Urquhart system may accommodate a rejection of the transaction by the buyer 220, the buyer 220 is plainly not provided with a plurality of financial transaction options, as claimed. See Hartley-Urquhart, col. 9, lines 14-37.

Moreover, the secondary reference, McCormack, is also deficient. In McCormack, the Internet or a network is used to exchange information electronically. McCormack, ¶ 4. However, McCormack is absolutely devoid of a financial analysis system or module for *generating a plurality of financial transaction options* (tailored to client data) or *providing those transaction options to a client*. See McCormack, pages 1-2 and 5.

In view of these deficiencies of both references, independent claims 1, 17, 33, 40, 49-60, and their dependent claims are believed to be patentable over the cited combination of Hartley-Urquhart and McCormack.

Withdrawal of Rejection

For these reasons, Applicants respectfully request withdrawal of the rejections under 35 U.S.C. § 103.

Request Examiner Clarify the Rejections of the Independent Claims

Applicants emphasize that the Examiner's rejections of the independent claims are vague regarding the various claim features. *See Office Action, pages 2-3.*

First, the Examiner pointed to passages in the primary reference (Hartley-Urquhart) that have nothing whatsoever to do with the particular claim feature at issue. *See Office Action, page 2.* For example, the Examiner relied on column 3, lines "16+" of the Hartley-Urquhart reference to teach "analyzing the client data in the financial analysis system," as recited in independent claim 1. *See id.* However, the passage cited by the Examiner simply teaches that a financial advisor 230 will consult with a buyer 220 to determine if the buyer 220 should utilize the disclosed supply-chain financing system. *See Hartley-Urquhart, col. 3, lines 16-20.* This passage clearly has nothing to do with financially analyzing client data with regard to a specific transaction for a medical resource. *See M.P.E.P. § 707.07 ("The pertinence of each reference, if not apparent, must be clearly explained in each rejected claim specified.")*

Second, the Examiner did not demarcate the cited passages of the Hartley-Urquhart reference and cited no passages from the McCormack reference. *See Office Action, pages 2-3.* With Hartley-Urquhart, the Examiner merely mentions a single line in each citation, leaving it to Applicants to guess the length of the passage cited by the Examiner. *See Office Action, page 3; see also 37 C.F.R. § 1.104(c)(2); M.P.E.P. § 707.07 ("When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable.")*

Third, the Examiner attempted to address the specific claim features of only independent claim 1, and ignored features of other independent claims not recited in independent claim 1. *See Office Action, page 2-3.* For example, the Examiner did not address the claim feature of a *lease option* as recited in independent claims 33, 49, 51, 53, 55, 56, 57, and 60. In another example, the Examiner did not address "machine readable code disposed on machine readable medium and adapted for *providing access*" to a

“financial module” or “transaction system,” as recited in independent claims 56-60. Applicants stress that the independent claims are not identical and that the Examiner is required to consider all claim features of each and every rejected independent claim in the present application. *See In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1974); M.P.E.P. § 2144.03. Under Section 103, the Examiner must meet the threshold burden of presenting a combination of references, or a modified reference, which teaches *all* of the features of a recited claim. *See Ex parte Clapp*, at 227 U.S.P.Q. 972 (B.P.A.I. 1985); M.P.E.P. § 2144.03. Applicants respectfully assert that pure conjecture will not do. *See* M.P.E.P. § 706.

For these reasons, Applicants respectfully request that the Examiner clarify the rejections of the independent claims, and also address every recited feature in the independent claims, or withdraw the rejections and allow the claims. *See* 37 C.F.R. § 1.104(c)2; M.P.E.P. §§ 706 and 707.7; M.P.E.P. 2144.03

Features of Dependent Claims Missing from Hartley-Urquhart and McCormack

Applicants emphasize that the dependent claims are also patentable over the cited combination of the Hartley-Urquhart and McCormack references by virtue of the subject matter that the dependent claims separately recite.

For example, dependent claim 3 recites “*tailoring the form* for the client according to the portion of the client data.” Conversely, the Hartley-Urquhart and McCormack references disclose a purchase order (PO) form, for example, with no teaching or suggestion that the form be altered or tailored to a specific client based on that client’s data. *See* Hartley-Urquhart, col. 4, lines 41-55; McCormack, ¶ 4. Indeed, in Hartley-Urquhart, the PO form must be standardized generically so that the PO data can be matched against the Vendor Profile format in the disclosed supply-chain system. *See* Hartley-Urquhart, col. 8, lines 50-51. While the *data entered* into the forms disclosed in the two references *may change* per the particular customer, aspects of the *forms* themselves are *not tailored* to a specific customer. *See* Hartley-Urquhart, col. 4, lines 41-

55; McCormack, ¶ 4. Accordingly, dependent claim 3 is believed to be patentable over the cited combination for this reason as well.

Dependent claim 19 recites a financial module comprising “*tax* rules for evaluating *tax* consequences of the financial transaction.” Conversely, the Hartley-Urquhart and McCormack references are *absolutely devoid* of a financial module having *tax* rules for assessing the impact of *taxes* on a particular transaction. *See, e.g.*, Hartley-Urquhart, col. 3, lines 8-63; col. 5, lines 31-67; McCormack, ¶ 4. While Hartley-Urquhart discloses a supply-chain financing method, and McCormack discloses the electronic exchange of purchasing information, the references clearly do not consider tax consequences of a given financial transaction. *See id.* Accordingly, dependent claim 19 is believed to be patentable over the cited combination for this reason as well.

Dependent claim 39 recites “a plurality of *service* options.” In contrast, the Hartley-Urquhart and McCormack references never discuss the issue of *servicing* a medical resource. *See, e.g.*, Hartley-Urquhart, col. 3, lines 8-63; McCormack, page 1. Accordingly, dependent claim 39 is believed to be patentable over the cited combination for this reason as well.

The Rejections of the Dependent Claims are Improper

Applicants stress that the Examiner failed to meet his burden under 35 U.S.C. § 103 in rejecting the dependent claims because the Examiner did not address the subject matter separately recited in the dependent claims. *See* Office Action, pages 2-3. To meet his burden of presenting a *prima facie* case of obviousness, the Examiner is required to address the specific elements of each and every claim rejected in the present application. *See In re Royka*, 180 U.S.P.Q. at 580; M.P.E.P. § 2144.03. Here, the Examiner fails to even address the subject matter of a single dependent claim, and therefore, the Examiner’s rejections are incomplete and are unfairly wasting time and resources of the Applicants. Again, Applicants must be given “a full and fair hearing.” M.P.E.P. § 706.07. Accordingly, for at least these reasons, Applicants traverse these unsupported

rejections of the dependent claims. Given that the Examiner has not met his burden, the rejections of the dependent claims should be withdrawn.

Applicants stress that “[i]n order to provide a complete application file history and to enhance the clarity of the prosecution history record, an examiner *must* provide clear explanations of all actions taken by the examiner during prosecution of an application.” M.P.E.P. § 707.07(d) (emphasis added). Furthermore “[w]here the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant’s argument and answer the substance of it.” M.P.E.P. § 707.07(d). Moreover, Applicants respectfully remind the Examiner that he should never overlook the importance of his role in allowing claims which properly define the invention. 37 C.F.R. § 1.104; M.P.E.P. § 706.

Improper Combination - Lack of Objective Evidence of Reasons to Combine

In addition, the Examiner has not shown the requisite motivation or suggestion to modify or combine the cited references to reach the present claims. As summarized above, the Examiner must provide objective evidence, rather than subjective belief and unknown authority, of the requisite motivation or suggestion to combine or modify the cited references. *In re Lee*, 61 U.S.P.Q.2d. 1430 (Fed. Cir. 2002). In the present rejection, the Examiner combined the cited references based on the *conclusory and subjective statement* that it would have been obvious to integrate the teachings of McCormack into Hartley-Urquhart because an artisan “would have recognized the growing trend in medical supply chain management along with the notoriously old and well known high costs associated with the supply chain and have sought [to] provide a system that would provide affordable, efficient and flexible financing for goods and services.” Office Action, pp. 3-4. Accordingly, Applicants challenge the Examiner to produce *objective evidence* of the requisite motivation or suggestion to combine the cited references, or remove the foregoing rejection under 35 U.S.C. § 103.

Request Evidence to Support Official Notice

In the Office Action, the Examiner has essentially taken Official Notice of facts outside of the record that the Examiner apparently believes are capable of demonstration as being “well-known” in the art. *See, e.g.*, Office Action, pages 3-4. For example, the Examiner stated that an “artisan would have recognized the *growing trend* in medical supply chain management along with the notoriously *old and well known high costs* associated with the supply chain.” *Id.* at 3 (emphasis added). Applicants stress that not only are the Examiner’s assertions confusing, the asserted facts are not of “notorious character” or “capable of such instant and unquestionable demonstration to defy dispute.” *See M.P.E.P. § 2144.03.* Therefore, in accordance with M.P.E.P. § 2144.03, Applicants hereby seasonably traverse and challenge the Examiner’s use of Official Notice. Specifically, the Applicants respectfully request that the Examiner produce evidence in support of the Examiner’s position as soon as practicable during prosecution and that the Examiner add a reference to the rejection in the next Official Action. If the Examiner finds such a reference and applies it in combination with the presently cited references, the Applicants further request that the Examiner specifically identify the portion of the newly cited reference that discloses the allegedly “well known” facts, as discussed above, or withdraw the rejections.

Conclusion

The Applicants respectfully submit that all pending claims should be in condition for allowance. However, if the Examiner believes certain amendments are necessary to clarify the present claims or if the Examiner wishes to resolve any other issues by way of a telephone conference, the Examiner is kindly invited to contact the undersigned attorney at the telephone number indicated below.

Respectfully submitted,

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